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Remarks

New Claims 30-42 simply re-present subject matter formerly recited in claims that had been canceled to accept the subject matter in Claims 9-16 that had been held to be allowable, a holding that has since been rescinded. Accordingly, no new fees for Claims 30-42 are required. Only new Claims 43-45 are believed to require fees.

Claim 9 has been rejected under 35 U.S.C. §102 as being anticipated by Buecher et al., USPN 6,757,397 allegedly because Claim 9 did not previously limit how much video has been recorded or how much time elapsed after recording before applying the gain adjust signal. The amendment to Claim 9, which is supported in the specification on page 9, lines 1-10, removes the basis for the allegation, rendering Claim 9 patentable.

Claim 10 has been rejected under 35 U.S.C. §103 as being unpatentable over Buecher et al. (alleged to teach fast response gain adjust signals) in view of Williamson et al., USPN 5,027,410, which teaches slow AGC for hearing aids. The only proffered suggestion to combine the video system of Buecher et al. with the hearing aid technology of Williamson et al. is essentially that both happen to exist.

The rejection manifestly fails to satisfy MPEP §2143 *et seq.* for the following reasons. First, it is not clear that Buecher et al. in fact teach "fast response" gain adjust signals as the skilled artisan would recognize the term. Certainly, Buecher et al. nowhere mentions the term "fast". Second, Williamson et al. nowhere suggests using its slow response AGC in addition to a fast response AGC, nor does Buecher et al. ever suggest using both. Thus, even if the skilled artisan were motivated to in some way combine the references, a point which Applicant does not concede, he would likely as not simply replace Buecher et al.'s

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alleged "fast" AGC with Williamson et al.'s slow AGC, not use both for some unstated, unsuggested way together.

Claims 11-16 have been rejected under 35 U.S.C. §103 as being unpatentable over Matsuo et al. (publication) in view of Buecher et al. and Matsuo, USPN 6,600,824. Of relevance to amended Claim 11, which now incorporates the subject matter of Claim 13 as well as the specific mapping disclosed in the specification on page 9, is the allegation that Matsuo teaches recording a calibration audio level *contemporaneously* with the calibration person-microphone position signal, relying on sections 2.1 and 2.2 of Matsuo. However, these sections discuss recording nothing "contemporaneously" with another thing. Instead, Matsuo teaches that the position of the microphones relative to the video camera must first be determined, then the rest of Matsuo can be implemented. During the microphone-video camera determination, there is evidently nothing going on with respect to person-microphone determinations. Moreover, the specific mapping now set forth in Claim 11 does not appear to be taught in the applied reference.

Claim 30 presents some (but not all) subject matter formerly presented in now-canceled Claim 1, which had been rejected under 35 U.S.C. §102 as being anticipated by Park, USPN 5,477,270 and Matsuo, USPN 6,600,824. Claim 34 presents subject matter formerly presented in now-canceled Claim 6, which had been rejected as being anticipated by both Shim et al., USPP 2002/0068537, and by Hisaki, JP 05-183621. Claim 35 presents subject matter formerly presented in now-canceled Claim 7, which had been rejected as being anticipated by both Shim et al., USPP 2002/0068537, and by Hisaki, JP 05-183621. Claim 37 presents subject matter that had been formerly presented in now-canceled Claim 24, which had been rejected under 35 U.S.C. §102 as being anticipated by Matsuo, USPN 6,600,824.

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Turning to Claim 30, Park obtains audio gain from a lens position which is independent of Claim 30's head location relative to a direction of sensitivity of a microphone. Note that Applicant is not claiming merely a person's head, which as the examiner correctly pointed out is inherent in people, but rather establishing an audio gain based on a person's position relative a *direction of sensitivity* of a microphone. Park nowhere even mentions the concept of a person's position *relative a direction of sensitivity of a microphone*. Likewise, referring to the relied-upon portions of Matsuo in the rejection, Matsuo can adjust audio gain but based only on distance as indicated by the size of an imaged face, not based on orientation.

Neither Shim et al. nor Hisaki nor Matsuo teach a motion sensing system as required by Claim 34. More particularly, the proximity sensors of Shim et al. are not motion sensors, and as discussed above Matsuo likewise provides no motion sensor. Hisaki uses an infrared sensor per the examiner, which again is not, in the way it is used by Hisaki, a motion sensor. Accordingly, Claim 34 is patentable.

None of the references formerly applied against the subject matter of Claim 35 use lasers. In the previous rejection of Claim 7 the examiner has pointed to the infrared sensor of Hisaki, but that is not the same thing as a laser. Just because some lasers operate in the IR spectrum does not mean that all IR sensors are lasers. The implied conclusion of the syllogism underpinning the finding is false. Likewise, the various sensor types of Shim et al. somewhat eccentrically pointed to in the rejection (IR sensors, photoelectric sensors, sound sensors, capacitive sensors, and temperature sensors) are not lasers.

Regarding Claim 37, none of the references appear to teach or suggest position signals representative of a head location relative to a *direction of sensitivity* of the microphone.

The rejection swearing behind Shim et al. (which also establishes a date of conception prior to the Matsuo patent) in fact presents evidence in the form of testimony based on first hand knowledge of diligence,

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contrary to the allegation in the Office Action. This is no mere "pleading" but testimony under penalty of perjury alleging specific facts about the prosecution process that was followed.

It is believed that the new limitations set forth in Claims 43 *et seq.* are patentable over the applied references. Support for these new claims can be found in figures 2 and 3 and pages 9 and 10 of the specification.

Respectfully submitted,



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